

(A) has submitted information required and is eligible to receive a permit in accordance with section 305;

(B) has submitted evidence of financial assurance satisfactory under section 306; and

(C) meets any other requirements specified by such Secretary.

(3) The successor in interest shall assume the liability and reclamation responsibilities established by the existing permit and shall conduct the mineral activities in full compliance with this Act, and the terms and conditions of the permit as in effect at the time of transfer, assignment, or sale.

(4) Each application for approval of a permit transfer, assignment, or sale pursuant to this subsection shall be accompanied by a fee payable to the Secretary of the Interior, or for National Forest System lands, the Secretary of Agriculture, in such amount as may be established by such Secretary, or for National Forest System lands, by the Secretary of Agriculture. Such amount shall be equal to the actual or anticipated cost to the Secretary or, for National Forest System lands, to the Secretary of Agriculture, of reviewing and approving or disapproving such transfer, assignment, or sale, as determined by such Secretary. All moneys received under this subsection shall be deposited in the Locatable Minerals Fund established under title IV.

(i) **PUBLIC PARTICIPATION.**—The Secretary of the Interior and the Secretary of Agriculture shall jointly promulgate regulations to ensure transparency and public participation in permit decisions required under this Act, consistent with any requirements that apply to such decisions under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 305. PERSONS INELIGIBLE FOR PERMITS.

(a) **CURRENT VIOLATIONS.**—Unless corrective action has been taken in accordance with subsection (c), no permit under this title shall be issued or transferred to an applicant if the applicant or any agent of the applicant, the operator (if different than the applicant) of the claim concerned, any claim holder (if different than the applicant) of the claim concerned, or any affiliate or officer or director of the applicant is currently in violation of any of the following:

(1) A provision of this Act or any regulation under this Act.

(2) An applicable State or Federal toxic substance, solid waste, air, water quality, or fish and wildlife conservation law or regulation at any site where mining, beneficiation, or processing activities are occurring or have occurred.

(3) The Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 and following) or any regulation implementing that Act at any site where surface coal mining operations have occurred or are occurring.

(b) **SUSPENSION.**—The Secretary, or for National Forest System lands the Secretary of Agriculture, shall suspend an operations permit, in whole or in part, if such Secretary determines that any of the entities described in subsection (a) were in violation of any requirement listed in subsection (a) at the time the permit was issued.

(c) **CORRECTION.**—(1) The Secretary, or for National Forest System lands the Secretary of Agriculture, may issue or reinstate a permit under this title if the applicant submits proof that the violation referred to in subsection (a) or (b) has been corrected or is in the process of being corrected to the satisfaction of such Secretary and the regulatory authority involved or if the applicant submits proof that the violator has filed and is presently pursuing, a direct administrative or judicial appeal to contest the existence of the violation. For purposes of this section, an appeal of any applicant's relationship to an affiliate shall not constitute a direct administrative or judicial appeal to contest the existence of the violation.

(2) Any permit which is issued or reinstated based upon proof submitted under this subsection shall be conditionally approved or conditionally reinstated, as the case may be. If the violation is not successfully abated or the violation is upheld on appeal, the permit shall be suspended or revoked.

(d) **PATTERN OF WILLFUL VIOLATIONS.**—No permit under this Act may be issued to any applicant if there is a demonstrated pattern of willful violations of the environmental protection requirements of this Act by the applicant, any affiliate of the applicant, or the operator or claim holder if different than the applicant.

SEC. 306. FINANCIAL ASSURANCE.

(a) **FINANCIAL ASSURANCE REQUIRED.**—(1) After a permit is issued under this title and before any exploration or operations begin under the permit, the operator shall file with the Secretary, or for National Forest System lands the Secretary of Agriculture, evidence of financial assurance payable to the United States. The financial assurance shall be provided in the form of a surety bond, a trust fund, letters of credits, government securities, certificates of deposit, cash, or an equivalent form approved by such Secretary.

(2) The financial assurance shall cover all lands within the initial permit area and all affected waters that may require restoration, treatment, or other management as a result of mineral activities, and shall be extended to cover all lands and waters added pursuant to any permit modification made under section 303(f) (relating to exploration permits) or section 304(e) (relating to operations permits), or affected by mineral activities.

(b) **AMOUNT.**—The amount of the financial assurance required under this section shall be sufficient to assure the completion of reclamation and restoration satisfying the requirements of this Act if the work were to be performed by the Secretary concerned in the event of forfeiture, including the construction and maintenance costs for any treatment facilities necessary to meet Federal and State environmental requirements. The calculation of such amount shall take into account the maximum level of financial exposure which shall arise during the mineral activity and administrative costs associated with a government agency reclaiming the site.

(c) **DURATION.**—The financial assurance required under this section shall be held for the duration of the mineral activities and for an additional period to cover the operator's responsibility for reclamation, restoration, and long-term maintenance, and effluent treatment as specified in subsection (g).

(d) **ADJUSTMENTS.**—The amount of the financial assurance and the terms of the acceptance of the assurance may be adjusted by the Secretary concerned from time to time as the area requiring coverage is increased or decreased, or where the costs of reclamation or treatment change, or pursuant to section 304(f) (relating to temporary cessation of operations), but the financial assurance shall otherwise be in compliance with this section. The Secretary concerned shall review the financial guarantee every 3 years and as part of the permit application review under section 304(c).

(e) **RELEASE.**—Upon request, and after notice and opportunity for public comment, and after inspection by the Secretary, or for National Forest System lands, the Secretary of Agriculture, such Secretary may, after consultation with the Administrator of the Environmental Protection Agency, release in whole or in part the financial assurance required under this section if the Secretary makes both of the following determinations:

(1) A determination that reclamation or restoration covered by the financial assurance has been accomplished as required by this Act.

(2) A determination that the terms and conditions of any other applicable Federal requirements, and State requirements applicable pursu-

ant to cooperative agreements under section 308, have been fulfilled.

(f) **RELEASE SCHEDULE.**—The release referred to in subsection (e) shall be according to the following schedule:

(1) After the operator has completed any required backfilling, regrading, and drainage control of an area subject to mineral activities and covered by the financial assurance, and has commenced revegetation on the regraded areas subject to mineral activities in accordance with the approved plan, that portion of the total financial assurance secured for the area subject to mineral activities attributable to the completed activities may be released except that sufficient assurance must be retained to address other required reclamation and restoration needs and to assure the long-term success of the revegetation.

(2) After the operator has completed successfully all remaining mineral activities and reclamation activities and all requirements of the operations plan and the reclamation plan, and all other requirements of this Act have been fully met, the remaining portion of the financial assurance may be released.

During the period following release of the financial assurance as specified in paragraph (1), until the remaining portion of the financial assurance is released as provided in paragraph (2), the operator shall be required to comply with the permit issued under this title.

(g) **EFFLUENT.**—Notwithstanding section 307(b)(4), where any discharge or other water-related condition resulting from the mineral activities requires treatment in order to meet the applicable effluent limitations and water quality standards, the financial assurance shall include the estimated cost of maintaining such treatment for the projected period that will be needed after the cessation of mineral activities. The portion of the financial assurance attributable to such estimated cost of treatment shall not be released until the discharge has ceased for a period of 5 years, as determined by ongoing monitoring and testing, or, if the discharge continues, until the operator has met all applicable effluent limitations and water quality standards for 5 full years without treatment.

(h) **ENVIRONMENTAL HAZARDS.**—If the Secretary, or for National Forest System lands, the Secretary of Agriculture, determines, after final release of financial assurance, that an environmental hazard resulting from the mineral activities exists, or the terms and conditions of the explorations or operations permit of this Act were not fulfilled in fact at the time of release, such Secretary shall issue an order under section 506 requiring the claim holder or operator (or any person who controls the claim holder or operator) to correct the condition such that applicable laws and regulations and any conditions from the plan of operations are met.

SEC. 307. OPERATION AND RECLAMATION.

(a) **GENERAL RULE.**—(1) The operator shall restore lands subject to mineral activities carried out under a permit issued under this title to a condition capable of supporting—

(A) the uses which such lands were capable of supporting prior to surface disturbance by the operator, or

(B) other beneficial uses which conform to applicable land use plans as determined by the Secretary, or for National Forest System lands, the Secretary of Agriculture.

(2) Reclamation shall proceed as contemporaneously as practicable with the conduct of mineral activities. In the case of a cessation of mineral activities beyond that provided for as a temporary cessation under this Act, reclamation activities shall begin immediately.

(b) **OPERATION AND RECLAMATION STANDARDS.**—The Secretary of the Interior and the Secretary of Agriculture shall jointly promulgate regulations that establish operation and reclamation standards for mineral activities permitted under this Act. The Secretaries may determine whether outcome-based performance